

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Decision _____

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

Rulemaking 12-06-013
(Filed June 21, 2012)

DECISION GRANTING COMPENSATION TO SAN DIEGO CONSUMERS' ACTION NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-06-029

Claimant: San Diego Consumers' Action Network	For contribution to D. 14-06-029
Claimed (\$): \$29,107.50	Awarded (\$): \$25,131.50 (reduced 13.7%)
Assigned Commissioner: Michael Picker	Assigned ALJ's: Jeanne McKinney, Julie M. Halligan

PART I: PROCEDURAL ISSUES

- A. Brief Description of Decision:** Decision granted approval of an multi-party settlement (Phase 2 Settlement) and adopted the Proposed Decision of ALJs McKinney & Halligan in the Rulemaking to establish SDG&E's residential rates for Summer 2014.

- B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	October 24, 2012	Yes.
2. Other Specified Date for NOI:	n/a	
3. Date NOI Filed:	November 20, 2012	Yes.
4. Was the notice of intent timely filed?		Yes, the notice of intent was timely filed.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Yes. (See Comment #B.5)	Yes.
6. Date of ALJ ruling:	February 25, 2013	Yes.

7. Based on another CPUC determination (specify):	R. 12-06-013	Yes.
8. Has the claimant demonstrated customer or customer-related status?		Yes.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	Yes. (See Comment #B.5)	Yes.
10. Date of ALJ ruling:	February 25, 2013	Yes.
11. Based on another CPUC determination (specify):	R. 12-06-013 (See Comment B.11)	Yes.
12. Has the claimant demonstrated significant financial hardship?		Yes, SDCAN demonstrated significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D. 14-06-029	Yes.
14. Date of Issuance of Final Decision:	June 19, 2014	Yes.
15. File date of compensation request:	June 26, 2014	Yes.
16. Was the request for compensation timely?		Yes, the request for compensation was timely filed.

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
B.5	In a ruling dated February 25, 2013 ALJ’s Sullivan and McKinney found that SDCAN filed a timely notice of intent to claim compensation that meets the requirements of Rule 17.1 and California Pub. Code § 1804(a), is a “customer” as that term is defined in Pub. Util. Code § 1802(b)(1)(C) and since a determination of significant financial hardship was made within one year prior to the commencement of this proceeding, the San Diego Consumers’ Action Network has a rebuttable presumption of eligibility for compensation in this proceeding.	The Commission accepts this assertion.

B.11	SDCAN understands that the ALJ Division has adopted a practice of only issuing a formal ruling on an intervenor's notice of intent if the intervenor is seeking to demonstrate significant financial hardship, rather than relying on the rebuttable presumption created by an earlier finding of hardship. SDCAN's showing on financial hardship (relying on the rebuttable presumption) and customer status was contained in its NOI and was found to have satisfied these two standards in this proceeding as per February 25, 2013 ALJs' ruling, p. 43-45	The Commission accepts this assertion.
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PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision *see* § 1802(i), § 1803(a) & D.98-04-059)

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
Overview: SDCAN protested and then presented testimony on two major issues: SDCAN argued SDG&E had proposed a scheme that would impose rate shock upon Tier 1 customers and that conservation signals would be unduly muted. It proposed that residential customers are best served by a pricing scheme comprised of sufficiently differentiated tiers to preserve the conservation benefits of tiered rates while permitting the top tier levels to be reduced. Specifically, SDCAN's testimony presented two proposals: <input type="checkbox"/> Rate changes should focus upon Tiers 2 and 3, with Tier 3 getting closer to Tier 4 and increasing the delta between Tiers 1 and 2.	SDCAN December 23, 2013 Protest Testimony of Michael Shames, p. 6-9	Yes.
<input type="checkbox"/> Tier 1 rate should be increased by no more than the system average rate increase. It also argued that the proposed rate design should be either revised to ignore any and all 2014 rate adjustments (ERRA, SONGS etc), or should be revised to reflect the actual and expected reductions associated with I	Testimony of Michael Shames, p. 11	
SDCAN (and other parties) filed a joint motion for adoption of the settlement agreement.	D. 14-06-029, p. 34	Yes.
SDCAN.... filed testimony in response to the simplified Phase 2 Proposal.....expressed concern regarding impacts on lower tier customers and the potential for rate shock associated with SDG&E's proposal to quickly approach a two-tiered rate structure.	D. 14-06-029, p. 38	Yes.

<p>SDCAN recommended that any significant rate changes should occur in Tiers 2 and 3, in order to move toward a three-tiered rate structure instead of a two-tiered rate structure. SDGAN also recommended that SDG&E's revenues should be revised to either exclude projected rate increases or to incorporate offsetting decreases, such as those expected in Investigation 12-10-013.</p>	<p>D. 14-06-029, p. 39</p>	<p>Yes.</p>
<p>Testimony of Michael Shames, p. 7 SDCAN specifically proposed that Tier 1 should be increased to no more than 16 cents and Tier 2 should be raised from 17.8 to close to 22 cents per kwhr. Meanwhile, Tiers 3 and 4 and be brought closer to the 34 cent range</p> <p>D. 14-06-029, Attachment C, p. 7, p. 9, Table 1 Non-CARE Tier 1: Tier 1 Rates shall change at a level of residential class average rate ("RAR") plus 2%, but in no event less than 7% relative to February 1, 2014 rates. In the event that Tier 1 rates change at the floor level of 7%, the existing cents/kWh differential between Tier 1 and Tier 2 rates shall be maintained. Tier 2 Rates shall change at a level of RAR plus 4%, subject to the provisions applicable to the Tier 1 and Tier 2 differential in the event Tier 1 reaches the 7% floor set forth above.</p>	<p>D. 14-06-029, p. 43 The SDG&E Settlement also reflects compromise by the settling parties. For example, SDG&E's January 2014 simplified Phase 2 Proposal would have reduced the differential between non-CARE Tier 1 and Tier 2 and increased Tier 1 rates at the same level as SAR plus one cent per kWh, but the (Phase 2) SDG&E Settlement provides that non-CARE Tier 1 rates change at a level of RAR plus 2% (but in no event less than 7%) while non-CARE Tier 2 rates change at a level of RAR plus 4%. And, rather than changing CARE rates at a the same level as SAR changes, as SDG&E proposed, the SDG&E Settlement provides that CARE Tier 1 and Tier 2 rates change at a level of RAR plus 2% and CARE Tier 3 rates change at a level of RAR plus 5%.</p>	<p>Yes.</p>
<p>The adopted settlement rejected each of the controversial elements of SDG&E's proposal:</p> <ul style="list-style-type: none"> <input type="checkbox"/> No change the number of usage tiers or the structure of the FERA or medical baseline programs. <input type="checkbox"/> It does not include a fixed customer charge and <input type="checkbox"/> it does not change the current baseline quantities. <input type="checkbox"/> Did not appreciably change the differentials between tiers 	<p>D. 14-06-029, p. 57 SDG&E, ORA, TURN, UCAN, SDGAN, and CCUE filed a Joint Motion for Adoption of Settlement Agreement for Phase 2 Interim Residential Rate Design Changes for SDG&E. The SDG&E Settlement does not change the number of usage tiers or the structure of the FERA or medical baseline programs. It does not include</p>	<p>Yes.</p>

	a fixed customer charge and it does not change the current baseline quantities. The SDG&E Settlement does change the differentials between tiers.	
Final decision requires incorporation of revenue requirement changes pursuant to 2015 ERRRA Forecast, SONGS related adjustments and other year- end adjustments. Testimony of Michael Shames, p. 11 Because the Commission is expected to act on Phase 1 and 2 of I. 12-10-013 in the first quarter of 2014, the proposed rate design should be either revised to ignore any and all 2014 rate adjustments (ERRRA, SONGS etc), or should be revised to reflect the actual and expected	D. 14-06-029, Attachment D, p. D-3 Anticipated implementation of revenue requirement changes pursuant to 2015 ERRRA Forecast, SONGS related adjustments, Year-end Balances	Yes.

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC
a. Was ORA a party to the proceeding?¹ (Y/N)	Yes	Agreed.
b. Were there other parties to the proceeding? (Y/N)	Yes	Agreed.
c. If so, provide name of other parties: TURN, CCUE, UCAN		Agreed.
d. Intervenor's claim of non-duplication: There were numerous active parties opposing SDG&E's rate design proposals. Under such conditions, SDCAN submits that it was nearly impossible to avoid some amount of duplication. Still, SDCAN strove to keep such duplication to a minimum by coordinating with the other active parties to the extent practicable to identify issue areas that would be sufficiently covered by those parties. In particular, SDCAN consulted closely with ORA and TURN in order to minimize the overlap between the respective organization's testimony. As a result, SDCAN's testimony focused on two primary issues: SDCAN submits that residential customers are best served by a pricing scheme comprised of equally differentiated tiers to preserve the conservation benefits of tiered rates while permitting the top tier levels to be reduced. During the hearing preparation and settlement process, SDCAN coordinated with ORA and TURN thus minimizing overlap of preparation. In a proceeding such as this where many stakeholder groups participate, some degree of duplication may be practically unavoidable. SDCAN and other parties at times supported overlapping recommendations, but SDCAN's compensation in this proceeding should not be reduced for duplication of the showings of other parties. Moreover, in those instances, SDCAN sought to bolster support for the proposal by emphasizing distinct facts and legal authority to support its recommendations.		Agreed.

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

In these circumstances, SDCAN submits that the Commission should find that there was no undue duplication, as any duplication served to materially supplement, complement or contribute to the showing of another party and, therefore, is fully compensable under PU Code Section 1802.5. Hence, the Commission should not reduce SDCAN's award of compensation due to duplication.	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Intervenor's claim of cost reasonableness	CPUC Verified
<p>SDCAN's participation in this proceeding provides several benefits for current and future energy ratepayers. SDCAN limited its intervention to two issues, both of which were ultimately settled by the parties decided by the Commission in support of SDCAN's position. Tier consolidation was limited to three tiers and the differential between tiers were roughly equal, thus preserving the conservation effect of the higher tiers and San Onofre outage costs were incorporated into the settlement. Rate shock for lower tier customers was avoided. The comparison of SDCAN's position to that of other parties and the final outcome are discussed above, but most clearly laid out in Attachment 3, which contains excerpts of the settling parties' opening brief.</p>	Verified.
<p>b. Reasonableness of Hours Claimed This request for compensation seeks a substantial award covering a large number of hours devoted to this proceeding by our attorney and expert witnesses. However, when viewed in context and in light of the course the proceeding took, the Commission should have little trouble realizing that the number of hours is reasonable under the circumstances.</p> <p>SDCAN's NOI projected 100 hours of attorney time and 100 hours of expert time, with a total estimate of \$60,000. However, in light of Mr. Shames' regulatory experience and the testimony of other parties, in order to avoid duplication, Mr. Shames limited his testimony to two discreet issues and is seeking compensation for only 67.5 hours.</p> <p>SDCAN excluded any hours spent reviewing the Proposed Decision and comments upon it as it did not submit any comments itself. However, SDCAN does include hours spent preparing for hearings, as the Settlement was not consummated until one day prior to the scheduled hearings and hearing preparation was necessary due to the potential for unresolved issues. Moreover, SDCAN was compelled to prepare cross for reply testimony filed by UCAN, which was critical of other intervenors' testimony.</p>	Verified, <i>but see</i> CPUC Disallowances and Adjustments in Part III.D.
<p>c. Allocation of Hours by Issue SDCAN has allocated its attorney time by issue area or activity, as evident on our attached timesheets. However, because SDCAN's intervention was limited to two discreet issues, the allocation is between Tier rate structure and Revenue Requirement. Most of the time dedicated to the case involved discovery and case-preparation/settlement discussions which could not be allocated by issue.</p>	Verified.

B. Specific Claim:*

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michael Shames	2013	18.1	\$365	A.10-12-005	\$6,606.50	2013	18.1	365.00	6,606.50
Michael Shames	2014	49.4	\$365	A.10-12-005	\$18,031.00	2014	49.4	375.00 [1]	18,525.00
Michael Shames	2013 (add)	67.5	\$50	(Comment 1 below)	\$ 3,375.00	2013 [2]	00.00	00.00	00.00
	Subtotal:				\$28,012.50	Subtotal \$:			25,131.50
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michael Shames	2014	6	182.50	Commission policy	1,095.00	2014	00.00 [3]	187.50	00.00
	Subtotal:				\$1,095.00	Subtotal:			00.00
TOTAL REQUESTS:					29,107.50	TOTAL AWARD :			\$ 25,131.50
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate.</p>									
Attorney		Date Admitted to CA BAR		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation			
Michael Shames		June 3, 1983		108582		Please note from January 1, 1986 to January 15, 1987 and from January 1, 1997 until October 4, 2011, Mr. Shames was an inactive member of the California Bar. He had restored his active status before the commencement of this proceeding.			

C. Intervenor's Comments Documenting Specific Claim.

	Intervenor's Comment	CPUC Discussion
Comment #1	<p>Shames' rate: The last approved rate for Michael Shames is \$365.00 an hour in D.13-11-016 for all work performed after October 2011. This rate reflects Mr. Shames' decision to reinstate his active membership with the Bar due to complaints filed with the CPUC about his attorney status. However, in A.10-12-005, UCAN requested compensation for Mr. Shames at a rate of \$535 per hour. It argues that as an active member of the Bar, the Commission is obligated to pay the market rates for an active Attorney in accord with other advocate/attorneys. Current TURN Legal Director Tom Long is presently approved for \$520.00 an hour Former senior attorney of TURN, and now CPUC Commissioner Michael Florio, as well as Robert Gnaizda are approved for a rate of \$535.00 an hour. Information regarding Robert Finkelstein, of TURN, has also been provided as a comparison. Mr. Finkelstein has been an outstanding advocate for TURN since 1992, and is well known to this Commission. He has an approved rate of \$490.00. SDCAN seeks compensation at the rate in which Mr. Shames will be compensated in A. 10-12-005 and no less than his compensation in D. 13-11-016.</p> <p>SDCAN also requests a \$50 per hour adder for time spent by Mr. Shames in hearings, settlement meetings and workshops. In past awards of intervenor compensation the Commission has recognized that under certain circumstances an enhancement of the base level of award is warranted. Specifically, efficiency adders have been adopted by the Commission in past decisions that reflect an attorney's dual role as expert and attorney for as much as \$80 per hour above the approved market rate where there has been an exceptional result and involved skills or duties that were far beyond those normally required. It most recently adopted an efficiency adder in D.11-12-016.</p> <p>SDCAN submits that it was able to play a particularly important role in achieving the ultimate settlement of complex issues that threatened to consume substantial time and resources. Mr. Shames served as an expert as well as attorney in these meetings and the adder represents a reduction in the costs that would have been sought had SDCAN had retained expert witnesses. Mr. Shames' mastery of the rate design/revenue allocation issues permitted SDCAN to achieve efficiencies that are not offered by most intervenors --- or utilities. The settlement process benefited greatly from SDCAN's participation, and the resulting outcome of the revenue allocation issues reflect SDCAN's contributions throughout.</p>	<p>In D.14-08-025, which awarded intervenor compensation to UCAN in A.10-12-005, Shames' rate was set at \$345 for 2012. In D.14-12-064, Shames' 2013 rate was set at \$365. For Shames' work performed in 2013 for the current proceeding, the Commission will continue to apply the rate of \$365.</p>

D. CPUC Disallowances & Adjustments:

#	Reason
[1]	In Resolution ALJ-303, the Commission adopted a 2.58% cost-of-living adjustment for 2014. When applied to Shames' 2013 rate, and rounded to the nearest five dollar increment, Shames' 2014 is set at \$375.
[2]	As the Commission stated in D.11-12-016, an efficiency adder "has been approved when a customer's participation, in addition to an exceptional degree of success, involved skills or duties that were far beyond those normally required." Here, Shames' participation neither produced an exceptional degree of success nor involved skills/duties that were far beyond those normally required. The Commission will not award Shames the requested efficiency adder.
[3]	SDCAN did not submit timesheets for work completed related to intervenor claim preparation. As such, the Commission cannot compensate for this work.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?	No.
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	Yes.

FINDINGS OF FACT

1. San Diego Consumers' Action Network has made a substantial contribution to D.14-06-029.
2. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable compensation is \$25,131.50.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. San Diego Consumers' Action Network is awarded \$25,131.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric shall pay San Diego Consumers' Action Network their respective shares of the award, based on their California-jurisdictional electric revenues for the 2014 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning September 9, 2014, the 75th day after the filing of San Diego Consumers' Action Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1406029		
Proceeding(s):	R1206013		
Author:	ALJ McKinney and Halligan		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
San Diego Consumers' Action Network	6/26/14	\$29,107.50	\$25,131.50	No.	See Part III.D. of this Decision.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michael	Shames	Attorney	San Diego Consumers' Action Network	\$365	2013	\$365.00
Michael	Shames	Attorney	San Diego Consumers' Action Network	\$365	2014	\$375.00

(END OF APPENDIX)